



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/585,891

07/11/2006

Jean-Marie Vau

87788/KNM

7626

1333 7590 07/06/2009
EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

PILAPITIYA, NALIN B

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

07/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,891	Applicant(s) VAU ET AL.	
	Examiner NALIN PILAPITIYA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/27/2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/11/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Harma (Pub. No.: US 2001/0053691 A1).

Re claim 1, Harma discloses a communication method between at least two terminals (10A, 10B) (paragraph 11), and based on the sending from a first terminal (10A) to at least one second terminal (10B) (paragraph 40) of a multimedia message (paragraph 7; games can be construed as multimedia messages) comprising a programming agent (36), consisting in automatically starting, using the programming agent, the establishment of a phone link between the first terminal (10A) and the at least one second terminal (10B) (paragraph 38 and 40; a phone link is established in order to communicate using SMS and MMS; the program agent or software is downloaded and installed before the game can start).

Re claim 5, Harma discloses the communication method according to claim 1, characterized in that the programming agent also automatically starts the display of a video sequence on the second terminal (10B) (paragraph 7 discloses that visual objects such as films and animations are included under the term

“recreational application” and therefore a video sequence would play upon implementation of the application).

Re claim 6, Harma discloses the communication method according claim 1, characterized in that the programming agent also automatically starts, on the second terminal (10B), the forming of a multimedia message comprised of digital data of image, text, sound and encoded data of the programming agent (paragraph 42; playing of the game involves multimedia messaging); the multimedia message being intended to be sent automatically to the first terminal (10A) (paragraph 42; the game involves back and forth multimedia messaging).

Re claim 7, Harma discloses the communication method according to claim 6, characterized in that the multimedia message sent automatically to the first terminal (10A) comprises digital data, for example of image, text, or sound, and encoded data specific to the programming agent (paragraph 42; playing of the game involves multimedia messaging).

Re claim 8, Harma discloses the communication method according to claim 7, characterized in that the digital data, for example of image, text, or sound are contextual data specific to user of the second terminal (10B) (paragraph 42, 3, and 7; the second terminal sends multimedia game messages that are announced by the user).

Re claim 11, Harma discloses the communication method according to claim 6, characterized in that the multimedia message sent from the second terminal (10B) to the first terminal (10A) is automatically displayed on the first

Art Unit: 2617

terminal (10A) (paragraph 42; playing of the game involves multimedia messaging).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2617

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harma (Pub. No.: US 2001/0053691 A1) in view of Tornqvist (Patent Number: 6,055,424).

Re claim 2, Harma discloses the communication method according to claim 1, but fails to disclose characterized in that the phone link consists in the activation, using the programming agent, of the voice channel and the loudspeaker of the second terminal.

However, Tornqvist discloses characterized in that the phone link consists in the activation, using the programming agent, of the voice channel and the loudspeaker of the second terminal (column 12, lines 56 – 62; column 16, lines 48 - 52).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of “Harma” and “Tornqvist” as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the phone link consists in the activation, using the programming agent, of the voice channel and the loudspeaker of the second terminal for the benefit of alerting the user once the message has been downloaded.

Re claim 3, Harma discloses the communication method according to claim 1, but fails to disclose characterized in that the phone link between the first and second terminal is a wireless link, such as GSM, or GPRS.

However, Tornqvist discloses characterized in that the phone link between

Art Unit: 2617

the first and second terminal is a wireless link, such as GSM, or GPRS (column 3, lines 1 – 9; mention the use of a GSM system).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of “Harma” and “Tornqvist” as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the phone link between the first and second terminal is a wireless link, such as GSM, or GPRS for the benefit of using a popular standard for mobile phones.

Re claim 4, Harma discloses the communication method according to claim 1, but fails to disclose characterized in that the programming agent also automatically starts an audible alarm on the second terminal (10B).

However, Tornqvist discloses characterized in that the programming agent also automatically starts an audible alarm on the second terminal (10B) (column 12, lines 56 - 62).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of “Harma” and “Tornqvist” as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the programming agent also automatically starts an audible alarm on the second terminal (10B) for the benefit of alerting the user once the message has been downloaded.

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Art Unit: 2617

Harma (Pub. No.: US 2001/0053691 A1) in view of Hunter (Pub. No.: US 2004/0005915 A1).

Re claim 9, Harma discloses the communication method according to claim 8, but fails to disclose characterized in that the contextual data are collected on a third terminal (15) capable of communicating with the second terminal (10B) by a link (14), such as Bluetooth or Wifi.

However, Hunter discloses characterized in that the contextual data are collected on a third terminal (15) capable of communicating with the second terminal (10B) by a link (14), such as Bluetooth or Wifi (paragraph 9).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of "Harma" and "Hunter" as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the contextual data are collected on a third terminal (15) capable of communicating with the second terminal (10B) by a link (14), such as Bluetooth or Wifi for the benefit of transferring images from the third terminal to the camera.

Re claim 10, Harma discloses the communication method according to claim 9, but fails to disclose characterized in that the third terminal is a camera (15) capable of recording a video clip.

However, Hunter discloses characterized in that the third terminal is a camera (15) capable of recording a video clip (paragraph 2, 9, 16, 38, and 39).

Motivation to combine may be gleaned from the prior art contemplated.

Art Unit: 2617

Therefore, one skilled in the art would have found it obvious from the combined teachings of "Harma" and "Hunter" as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the third terminal is a camera (15) capable of recording a video clip for the benefit of video phone capability.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harma (Pub. No.: US 2001/0053691 A1) in view of Kanamaru (Pub. No.: US 2003/0134623 A1).

Re claim 12, Harma discloses the method according to claim 7, but fails to disclose characterized in that the code data of the programming agent are automatically destroyed when the programming agent is deactivated.

However, Kanamaru discloses characterized in that the code data of the programming agent are automatically destroyed when the programming agent is deactivated (paragraph 50).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of "Harma" and "Kanamaru" as a whole to produce the invention as claimed with a reasonable expectation of characterized in that the code data of the programming agent are automatically destroyed when the programming agent is deactivated for the benefit of saving storage space on the mobile.

Conclusion

Art Unit: 2617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NALIN PILAPITIYA whose telephone number is (571)270-7122. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael G. Perez can be reached on (571)272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NALIN PILAPITIYA/
Examiner, Art Unit 2617

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617